



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,430	06/28/2004	Kyung-Jin Kim	PISI 2 00008	9319
27885	7590	11/28/2005		EXAMINER
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			WIEKER, AMANDA FLYNN	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

88

Office Action Summary	Application No.	Applicant(s)
	10/500,430	KIM, KYUNG-JIN
	Examiner Amanda F. Wieker	Art Unit 3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 June 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1 and 2 is/are rejected.
 7) Claim(s) 3-7 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 28 June 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 6/28/04.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the phrase "Disclosed is" is redundant and can be inferred from the abstract. Correction is required. See MPEP § 608.01(b).
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Combined Splint for Selectively Immobilizing the Hand, Forearm and Elbow.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

4. Claim 7 is objected to because of the following informalities: In line 7, the word "bolt" is miswritten as "volt". Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3743

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

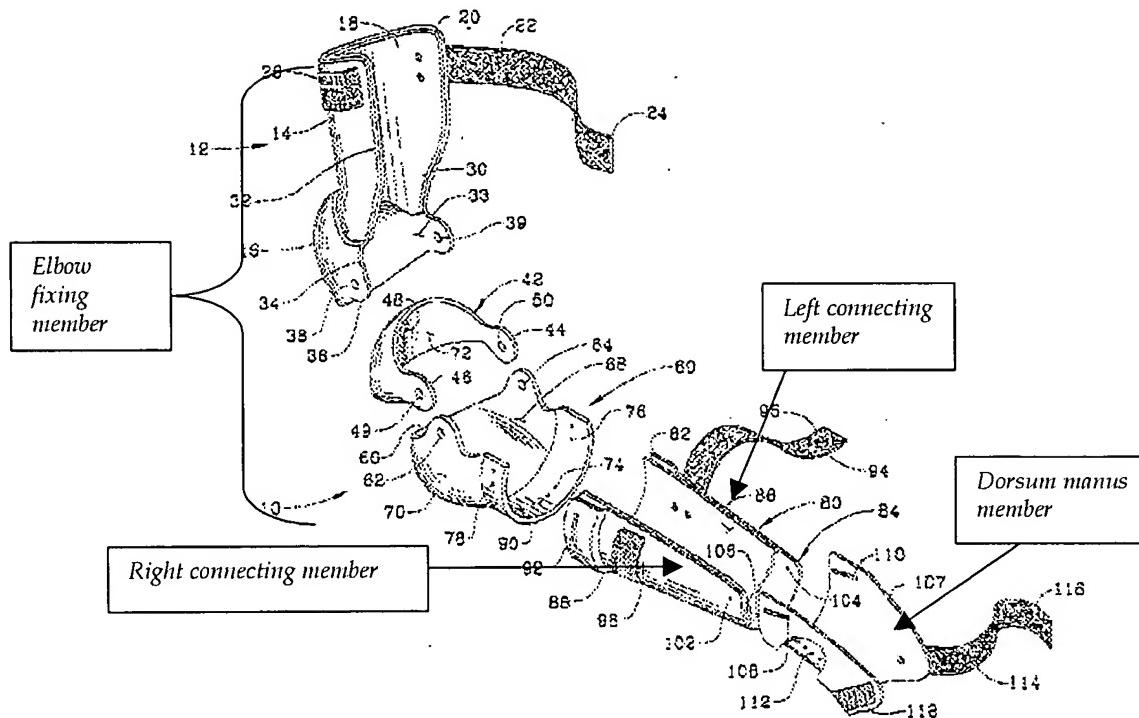
6. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,662,594 to Rosenblatt in view of U.S. Patent Number 5,254,078 to Carter et al.

Rosenblatt discloses a combined splint and cast for immobilizing the injured body part due to fracture, ligament rupture, dislocation or the like, the combined splint and cast comprising (see below):

a hand fixing member including a dorsum manus member for wrapping the back of the hand and the wrist;

a connecting member including right and left connecting members which form a pair for wrapping the region from the wrist to below the elbow; and

an elbow fixing member for immobilizing the region from the elbow to the middle portion of the humerus, wherein the hand fixing member, the connecting member and the elbow fixing members are used separately or cooperatively by being fastened with bolts (locking screws). Rosenblatt does not specify that the hand fixing member include a palm member.



Carter et al. disclose a hand fixing member comprising a dorsum manus member for wrapping the back of the hand and the wrist and a palm member for supporting a palm of the hand, the dorsum manus and palm members forming a pair. Carter et al. disclose that the pair of hand fixing members applies pressure to the metacarpal bones of the hand to promote healing (see Abstract and col. 2, 1st paragraph).

It would have been obvious to one skilled in the art at the time the invention was made to have provided the splint disclosed by Rosenblatt, wherein the hand fixing member includes a palm member, as taught by Carter et al., to provide pressure to the metacarpal bones to promote healing.

Rosenblatt in view of Carter et al. disclose each and every structural element of the splint set forth in claims 1-2. Rosenblatt discloses a hand fixing member, a connecting member and an elbow fixing member, but Rosenblatt is silent as to the method of making the members.

The claimed phrase "...are injection molded" is being treated as a product by process limitation; that is, that the hand fixing member, connecting member and elbow fixing member are made by injection molding.

As set forth in MPEP 2113, product by process claims are NOT limited to the manipulations of the recited steps, only to the structure implied by the steps. Once a product appearing to be substantially the same or similar is found, a 35 U.S.C. 102/103 rejection may be made and the burden is shifted to applicant to show an unobvious difference. See MPEP 2113.

Thus, even though Rosenblatt is silent as to the process used to make the members, it appears that the product in Rosenblatt would be the same or similar as that claimed; especially since both applicant's product and the prior art product is made of rigid material adapted to support and conform with the human arm.

Allowable Subject Matter

7. Claims 3-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda F. Wieker whose telephone number is 571-272-4794. The examiner can normally be reached on Monday-Thursday, 7:30 - 5:00 and alternate Fridays.

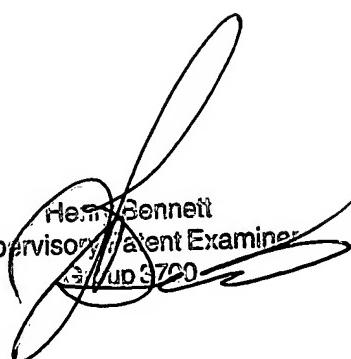
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3743

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda F. Wieker
Examiner
Art Unit 3743


afw


Helen M. Bennett
Supervisory Patent Examiner
Art Unit 3743